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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

ALASKA PACIFIC LEASING COMPANY,

Case No. 3:15-cv-00196-JWS

Plaintiff,

vs.

MB AMERICA, INC.,

**DEFENDANT MB AMERICA, INC.'S
NOTICE OF REMOVAL**

Defendant.

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant MB America, Inc. (“MB”) removes this case from the Superior Court for the State of Alaska, Third Judicial District at Anchorage, to the United States District Court for the District of Alaska. In support of this Notice of Removal, MB states as follows:

THE REMOVED CASE

1. On or about August 31, 2015, Plaintiff Alaska Pacific Leasing Company (“Alaska Pacific”) filed its Complaint (“Complaint”) captioned *Alaska Pacific Leasing Company v. MB America, Inc.*, Case No. 3AN-15-09361CI, in the Superior Court for the State of Alaska, Third Judicial District at Anchorage. *See* Complaint, attached as Exhibit A. Alaska Pacific alleges that MB acted in violation of the Alaska Unfair Trade Practices Act and in breach of the covenant of good faith in connection with the parties’ dealer agreement. *See* Complaint, ¶¶ 17-30.

PAPERS FROM REMOVED ACTION

2. As required under 28 U.S.C. § 1446(a), attached as Exhibit A are copies of all process, pleadings and orders, including the Complaint, served upon MB in the removed case.

THE REMOVAL IS TIMELY

3. Defendant MB was served with the Complaint September 14, 2015. This Notice of Removal is being filed within 30 days of service of a copy of the initial pleading setting forth the claims for relief upon which such action is based and, therefore, is timely under 28 U.S.C. § 1446(b).

THE VENUE REQUIREMENT IS MET

4. The Superior Court for the State of Alaska, Third Judicial District at Anchorage, is located within the District of Alaska. 28 U.S.C. § 81A. Venue is thus proper because this is the “district and division embracing the place where such action is pending.” 28 U.S.C. § 1441(a).

DIVERSITY OF CITIZENSHIP EXISTS

5. This is a civil action falling under the Court’s original jurisdiction per 28 U.S.C. § 1332 (diversity of citizenship) and is subject to removal by this Court pursuant to 28 U.S.C. §§ 1441 and 1446.

6. Upon information and belief Plaintiff Alaska Pacific Leasing Company is, and was at the time it filed the Complaint, a citizen of Alaska.

7. Defendant MB America, Inc., is not now, and was not at the time the action was commenced, a citizen of Alaska. *See* 28 U.S.C. § 1441(b). MB is incorporated in Nevada and has its principal place of business in Nevada.

8. Because Plaintiff Alaska Pacific is a citizen of Alaska and Defendant MB is not, diversity of citizenship exists under 28 U.S.C. § 1332.

THE AMOUNT-IN-CONTROVERSY REQUIREMENT IS SATISFIED

9. The face of the Complaint makes clear that the amount in controversy is more than \$75,000.00 exclusive of costs and interest. Plaintiff alleges that it “has suffered damages in excess of \$100,000” and prays for entry of judgment for actual damages “in an amount believed to exceed \$100,000” and for treble damages by statute. *See* Complaint ¶¶ 25, 28 and 30 and p. 6.

REMOVAL JURISDICTION

10. This action involves a controversy wholly between citizens of different states and the value of the matters in dispute in same exceeds \$75,000.00, exclusive of interest and costs, as apparent from the allegations set out in the Complaint. As such, this action is one over which the District Court has original subject matter jurisdiction pursuant to 28 U.S.C. § 1332.

FILING OF REMOVAL PAPERS

11. A copy of this Notice of Removal is being served on Plaintiff’s counsel and being filed with the Superior Court for the State of Alaska, Third Judicial District at Anchorage, as provided by 28 U.S.C. § 1446(d).

WHEREFORE Defendant MB hereby removes the above-captioned action from the Superior Court for the State of Alaska, Third Judicial District at Anchorage, to the United States District Court for the District of Alaska.

Respectfully submitted this 13th day of October, 2015.

SEDOR, WENDLANDT, EVANS & FILIPPI, LLC
Attorneys for MB America, Inc.

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CERTIFICATE OF SERVICE

I certify that, on October 13, 2015, the foregoing document was filed electronically with the Clerk of Court for service by ECF on and was forwarded via U.S. Mail and electronic mail to:

Jason J. Ruedy
Royce & Brain
1407 West 31st Avenue, 7th Floor
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/s/ John C. Wendlandt

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